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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,634	12/17/2003	Lieven Leopold Albertine Trappeniers	Q78312	4745

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EXAMINER
GOODCHILD, WILLIAM J

ART UNIT	PAPER NUMBER
2145	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	**Applicant(s)**
Office Action Summary	10/736,634	ALBERTINE TRAPPENIERS ET AL.
	Examiner	**Art Unit**	
	William J. Goodchild	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>17 December 2003</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>17 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>12/17/2003</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Claim Objections

1.   Claims 2-8, 10, 12-14 and 16 are objected to because of the following

informalities:

Claim 2-7, line 1, the phrase "Method" has been defined in claim 1, line 1, it is

suggested to change the phrase to –The method--, in order to improve the clarity of the

claim language.

Claim 8, line 4, the phrase "access system" has been defined in claim 8, line 1, it

is suggested to change the phrase to –said access system--, in order to improve the

clarity of the claim language.

Claim 10, line 4, the phrase "service-selection-server" has been defined in claim

10, line 1, it is suggested to change the phrase to –said service-selection-server--, in

order to improve the clarity of the claim language.

Claim 12, line 4, the phrase "terminal" has been defined in claim 12, line 1, it is

suggested to change the phrase to –said terminal--, in order to improve the clarity of the

claim language.

Claims 10, 12 and 14, the phrase "tranceiver" has an incorrect spelling, it is suggested to change the phrase to --transceiver--, in order to improve the clarity of the claim language. The remainder of the document should be checked for other occurrences of "tranceiver" and corrected.

Claim 13, line 9, the phrase "said service-selection-server" has not been defined in the claim. It is suggested to change the phrase to --service-selection-server--, as this limitation has not been previously recited in the claim.

Claim 14, line 4, the phrase "coupling interface" has been defined in claim 14, line 1, it is suggested to change the phrase to --said coupling interface--, in order to improve the clarity of the claim language.

Claim 16, line 4, the phrase "providing server" has been defined in claim 16, line 1, it is suggested to change the phrase to --said providing server--, in order to improve the clarity of the claim language.

Any claim not specifically addressed above, is being objected to as incorporating the deficiencies of a claim upon which it depends.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

Independent claims 8, 10, 12, 14 and 16 are drawn towards a system comprising

processor system parts. In order for a system claim to be statutory, it must result in

useful, concrete and tangible results. In this instance there is no result of the system

claimed; processor system components do not result in any real world change as they

do not create a tangible result specifying what is being done with the hardware.

In addition, claims 8-17 can be considered to be software in accordance with applicants

specification, (example, page 11, lines 5-6). In order for a claim to be statutory, it must

fall within a process, machine, manufacture, or a composition of matter. Software does

not fall within a statutory category since it is not a series of steps or acts to constitute a

process, not a mechanical device or combination of mechanical devices to constitute a

machine, not a tangible physical article or object which is some form of matter to be a

product and constitute a manufacture, and not a composition of two or more substances

to constitute a composition of matter.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-6 and 8-17 are rejected under 35 U.S.C. 102(b) as being anticipated by

Westfall et al., (hereinafter Westfall), (International Publication No. WO 02/15462).

In reference to claim 1, Westfall teaches a method comprising:

(a) at said terminal, generating a service-selection-signal, (page 15, lines 22-24,

user chooses templates and end points to create instances of the desired services) and

transmitting said service-selection-signal from said terminal to a service-

selection-server, (page 16, lines 28-30, user created rule information is available to the

processor),

(b) at said service-selection-server, in dependence of a service-definition-signal,

generating a configuration-signal and transmitting said configuration-signal to said

access system for configuring at least parts of said access system and at least parts of

said couplings, (page 18, lines 21-25),

(c) at said service-selection-server, generating a service-information-signal and

transmitting said service-information-signal to said terminal and/or said coupling-interface, (Page 19, lines 4-7, new leaf nodes containing the updated data are formed), and

(d) at said terminal and/or said coupling-interface, communicating with said providing-server via at least one coupling defined by at least one service parameter, (page 1, lines 14-22, transmitting video conference signals requires high bandwidth, while transferring real time audio can allow limited data loss).

In reference to claim 2, Westfall teaches the method of claim 1 wherein:

generating said service-definition-signal, (page 18, lines 21-25, generate control messages).

In reference to claim 3, Westfall teaches the method of claim 1 wherein:

receiving said service-definition-signal from said providing-server defined by said service-selection-signal, (page 19, lines 4-7, the control messages received cause new leaf nodes to be added).

In reference to claim 4, Westfall teaches the method of claim 1 wherein:

configuring at least parts of said terminal and/or of said coupling interface, (page 19, lines 8-12), and of

setting up a virtual connection from said coupling-interface to said access system, (page 21, lines 27-29, allowing a user to select a service from a palette containing icons representing different services templates), and of

setting up a virtual connection from said access system to said providing-server,

and with said service parameter being supplied to said terminal and/or said coupling-

interface via said service-information-signal, (page 19 line 31 – page 20, line 1 and

page 19, lines 4-7).

In reference to claim 5, Westfall teaches the method of claim 1 wherein:

setting up a virtual connection from said coupling-interface to said service-

selection-server, (page 19 line 31 – page 20, line 1) and of

configuring at least parts of said terminal and/or said coupling-interface, (page

18, lines 21-25), and with said step

setting up a virtual connection from said access system to said providing-server,

and with said service parameter being pre-stored in said terminal and/or said coupling-

interface, (page 18, lines 21-25).

In reference to claim 6, Westfall teaches the method of claim 5 wherein:

re-configuring at least parts of said terminal and/or of said coupling-interface,

(page19, lines 8-12 and 13-17).

In reference to claim 8, Westfall teaches a system comprising:

a receiving processor-system-part for receiving a configuration-signal from said

service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16), and

a configuring processor-system-part for, in dependence of said configuration-signal, configuring at least parts of said access system and at least parts of said couplings, (page 19, lines 4-7 and page 18, lines 21-25 and page 22, lines 11-16).

In reference to claim 9, Westfall teaches a system comprising:

receiving a configuration-signal from said service-selection-server, (page 19, lines 4-7), and

configuring at least parts of said access system and at least parts of said couplings, (page 18, lines 21-25).

In reference to claim 10, Westfall teaches a system comprising:

a receiving processor-system-part for receiving a service-selection-signal from said terminal, (page 18, lines 21-25 and page 22, lines 11-16),

configuring processor-system-part for, in dependence of a service-definition-signal, generating a configuration-signal and transmitting said configuration-signal to said access system for configuring at least parts of said access system and at least parts of said couplings, (page 18, lines 21-25 and page 22, lines 11-16), and

a generating processor-system-part for generating a service-information-signal and transmitting said service-information-signal to said terminal, (page 18, lines 21-25 and page 22, lines 11-16).

In reference to claim 11, Westfall teaches a system comprising:

receiving a service-selection-signal from said terminal, (page 19, lines 4-7),

generating a configuration-signal and transmitting said configuration-signal to said access system for configuring at least parts of said access system and at least parts of said couplings, (page 18, lines 21-25), and

generating a service-information-signal and transmitting said service-information-signal to said terminal, (page 19, lines 4-7)l.

In reference to claim 12, Westfall teaches a system comprising:

a selecting processor-system-part for generating a service-selection-signal and transmitting said service-selection-signal from said terminal to said service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16),

a receiving processor-system-part for receiving a service-information-signal from said service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16), and

a communicating processor-system-part for communicating with said providing-server via at least one coupling defined by at least one service parameter, (page 18, lines 21-25 and page 22, lines 11-16).

In reference to claim 13, Westfall teaches a system comprising:

generating a service-selection-signal and transmitting said service-selection-signal from said terminal to said service-selection-server, (page 18, lines 21-25),

receiving a service-information-signal from said service-selection-server, (page 19, lines 4-7, the control messages received cause new leaf nodes to be added), and

communicating with said providing-server via at least one coupling defined by at least one service parameter, (page 1, lines 14-22, transmitting video conference signals requires high bandwidth, while transferring real time audio can allow limited data loss).

In reference to claim 14, Westfall teaches a system comprising:

a transceiving processor-system-part for receiving a service-selection-signal from said terminal and transmitting said service-selection-signal to said service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16),

a receiving processor-system-part for receiving a service-information-signal from said service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16), and

a communicating processor-system-part for communicating with said providing-server via at least one coupling defined by at least one service parameter, (page 18, lines 21-25 and page 22, lines 11-16).

In reference to claim 15, Westfall teaches a system comprising:

receiving a service-selection-signal from said terminal and transmitting said service-selection-signal to said service-selection-server, (page 19, lines 4-7),

receiving a service-information-signal from said service-selection-server, (page 19, lines 4-7), and

communicating with said providing-server via at least one coupling defined by at least one service parameter, (page 1, lines 14-22, transmitting video conference signals requires high bandwidth, while transferring real time audio can allow limited data loss).

In reference to claim 16, Westfall teaches a system comprising:

a receiving processor-system-part for receiving a request signal or a service-selection-signal from a service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16),

a generating processor-system-part for, in response to said request signal or said service-selection-signal, generating a service-definition-signal, (page 18, lines 21-25 and page 22, lines 11-16),

a transmitting processor-system-part for transmitting said service-definition-signal to said service-selection-server, (page 18, lines 21-25 and page 22, lines 11-16), and

a communicating processor-system-part for communicating with said terminal via at least one coupling defined by at least one service parameter, (page 18, lines 21-25 and page 22, lines 11-16).

In reference to claim 17, Westfall teaches a system comprising:

receiving a request signal or said service-selection-signal from a service-selection-server, (page 19, lines 4-7),

in response to said request signal or said service-selection-signal, generating a service-definition-signal, (page 18, lines 21-25),

transmitting said service-definition-signal to said service-selection-server, (page 15, lines 21-24), and

communicating with said terminal via at least one coupling defined by at least

one service parameter, (page 1, lines 14-22, transmitting video conference signals

requires high bandwidth, while transferring real time audio can allow limited data loss).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Westfall

et al., (hereinafter Westfall), (International Publication No. WO 02/15462) as applied to

claim 1 above, and further in view of Jones, (US Publication No. 2002/0176547).

In reference to claim 7, Westfall explicitly teaches the limitations of claim 1 as disclosed

above except for the limitation of:

at said access system, billing packet-signals (to be) exchanged between said

terminal and/or of said coupling-interface on the one hand and said providing-server on

the other hand.

The general concept of providing packet based billing, is well known within the art as

illustrated by Jones which discloses the use of a usage based packet billing system,

(Jones, paragraph 0032, lines 12-21), and falls within the realm of common knowledge

as obvious design optimization to quantify use of the network.

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Westfall to include the use of providing a usage based packet billing system

as taught by Jones in order to make use of the well known concept of providing packet

based billing.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

      a.   Geld, Gil and Sarch, Ray, "Data Communications: A comprehensive

approach", Third Edition, McGraw-Hill, 1995, chapter 20, discusses billing

chargeback in a data communication system

      b.   Hassan, Mahbub and Nayandoro, Alfandika, "Internet Telephony:

Services, Technical Challenges, and Products", IEEE Communications

Magazine, April 2000 – discusses usage based packet billing.

      c.   Yamato et al. (US Patent No. 6,094,431) – Discusses network resource

reservation methods for data packet transfer.

      d.   Westall et al. (US Patent No. 6,449,650) – Discusses quality of service

policies on a data communication network.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to William J. Goodchild whose telephone number is (571)

270-1589. The examiner can normally be reached on Monday - Friday / 9:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WJG
06/06/2007

JASON CARDONE
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